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**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-205351

**DATE:** March 10, 1982

**MATTER OF:** Lieutenant Colonel Thomas P.  
McCann, USA, Retired

**DIGEST:** Service member received retirement orders relieving him from active service on September 30, 1980, and placing him on the retired list effective October 1, 1980. He was paid a mileage allowance for travel to his home of selection based on the rate in effect on September 30, his last day of active duty. He is not entitled to the higher mileage rate which became effective the following day because under Appendix J of the Joint Travel Regulations, the last day of active duty is the effective date for determining allowances for travel to a member upon retiring.

This action is in response to a letter from Lieutenant Colonel Thomas P. McCann, USA, Retired, requesting further consideration of his claim for an increase in his mileage allowance entitlement for his travel to his home of selection after retirement from the Army in 1980. He claims he should have been paid at the 18.5-cent-per-mile rate which became effective October 1, 1980, rather than the 10-cent per mile rate previously in effect.

By settlement dated July 31, 1981, our Accounting and Financial Management Division disallowed the claim for the reason that the date for determining his entitlement was September 30, 1980, since that was his effective date of retirement for travel and transportation allowance purposes. We sustain that disallowance for the reasons stated below.

Colonel McCann, by orders dated August 12, 1980, was relieved from active service on September 30, 1980, and placed on the retired list on the date following. He was paid the mileage allowance at the rate of 10 cents per mile, which was the rate in effect on September 30, 1980.

Colonel McCann contends that the basis upon which the disallowance was predicated--the effective date of his retirement being September 30, 1980--was incorrect. He asserts that he was on active duty through September 30 and he was not actually placed on the retired list until October 1. Thus, he argues that since October 1 was his effective date of retirement, he is entitled to the higher mileage rates which went into effect that day.

While, as Colonel McCann indicates, September 30, 1980, was actually his last day on active duty and October 1, 1980, was his first day on the retired list, that would not provide a basis for authorizing payment of mileage to him at the increased mileage rate which became effective on October 1, 1980.

Section 404 of title 37, United States Code, provides, generally, that under regulations prescribed by the Secretaries concerned, members of the uniformed services who are being retired are entitled to travel and transportation allowances from their last duty station to their home of record or selection. Subsection (d) of that section, as amended by section 5(a) of Public Law 96-343, September 8, 1980, 94 Stat. 1123, 1126, provides that the Secretaries concerned may authorize a mileage allowance and prescribe the rate payable.

Regulations promulgated pursuant to that authority are contained in Volume 1 of the Joint Travel Regulations (1 JTR). Paragraph M4158 of 1 JTR provides entitlement for travel to a home of selection upon retirement with the allowances as prescribed in paragraph M4150. Paragraph M4150-1.1 (change 329, July 1, 1980), provides that the mileage rate payable for such travel was 10 cents per mile. Effective October 1, 1980, that rate was increased to 18.5 cents per mile (change 335, January 1, 1981).

For computing allowances under retirement orders, Appendix J of 1 JTR provides:

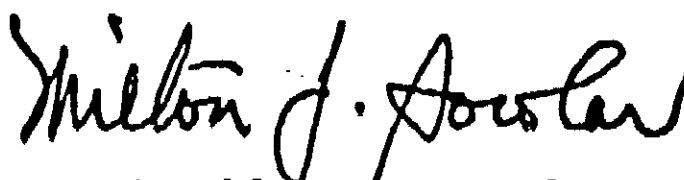
"EFFECTIVE DATE OF ORDERS. In the case of members being separated or retired, the

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effective date for determining entitlement to Travel and Transportation Allowances is the last day of active duty \* \* \*."

Since the last date that Colonel McCann was on active duty was September 30, 1980, the increased mileage rates which went into effect on October 1, 1980, do not apply to him.

Accordingly, the action taken by our Accounting and Financial Management Division disallowing his claim is sustained.

*for*   
Comptroller General  
of the United States